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| EXAMINER |
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HARRELL, ROBERT B

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| ART UNIT | PAPER NUMBER |
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2142

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,620

Applicant(s)

SHIMADA, MUNEDI

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20020305-et al.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached Office Action.

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1. Claims 1-16 are presented for examination.
2. Per the Information Disclosure Statements, only those text written in English have been considered even if within a non-English disclosure (i.e., English words in figures).
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. Each figure should be mentioned individually in the Brief Description of the Drawings and not grouped. For example, figure 9 should be cited as "Figures 9A, 9B, 9C, 9D, and 9E are" and not as currently written on page 4 paragraph [0018].
5. The textual portion of the specification is replete with grammatical and idiomatic errors too numerous to mention specifically. The specification should be revised carefully.
6. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
7. The following is a quotation of the second paragraph of 35 U.S.C 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-16 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:
9. Per claim 1, it cannot be clearly ascertained if -a content distribution schedule *is stored within* each one of the terminal devices-, or some other version is being claimed with the phrase "set on each one of the terminal devices" as "set" would suggest physically placing the schedule on top of the devices (i.e., the T.V. Guide is "set on the T.V."). The same holds for "setting" and "set" in claims 6, 10, 11, and 14. As for claim 14, "on a computer" should be -in a computer-. While these matters are trivial in nature, and such a rejection easily over come, more adequate grammatical terms should be used when possible within the claims to make the claims crystal clear in their scope of coverage.

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10. While none noticed, any term(s) or phrase(s) over looked by examiner which start with either "the" or "said" and do not have a single proper antecedent bases also is indefinite. Also, term(s) or phrase(s) introduced more than once without adequate use of either "the" or "said" for the subsequent use of the term(s) or phrase(s) would cause a lack of antecedent bases and would be indefinite. Moreover, multiple introduction of a term, or changes in tense, results in a lack of clear antecedent bases for term(s) or phrase(s) which relied upon the introduced term. Failure to correct all existing cases where clear antecedent bases are lacking can be viewed as non-responsive. Nonetheless, should a response yield all claims allowable short *a few* cases where clear antecedent bases are lacking within the claims, a preemptive authorization to enter an examiner's amendment to the record to correct such would accelerate a notice of allowance over a final rejection. Such could be added at the end of an applicant's response with the following statement: "Examiner is hereby authorized, without the need of further contact by examiner, to enter an Examiner's Amendment to correct any cases where antecedent bases are lacking." if the applicant so elects. This does not diminish the applicant's requirement to correct all such cases not so listed in the example few given above nor prohibit any amendments after a notice of allowance by the applicant.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

12. Claims 1-16 are rejected under 35 U.S.C. 102 (a) and/or 35 U.S.C. 102(b) since the invention was known or used by others in this country and/or in public use in this country more than one year prior to the date of application for patent in the United States.

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13. Examiner has reviewed the whole of the specification which, in general covers but not so limiting the claims hereto, prevents the overloading of distribution server sites by the sudden onslaught of download requests for newly released entertainment products (i.e., but not so limiting, movies, songs/music, games, and the like) at the moment of release; akin thereto, the sudden squeezing rush through theater doors on the first day and the first showing of a new and highly anticipated movie release. However, given the claims their broadest reasonable interpretation, the defined invention is not so limited and goes beyond such scope and are thus rejected on the ground so given herein. In fact, the claims read on television systems (an entertainment system) having (comprising) individual personal televisions (terminal devices of individual users) tuned into (connected to) a television network using radio waves and/or cable (a network), and a broadcast station (a server machine connected via the network to the terminal devices) connected to the televisions by radio waves or cable; (wherein) the broadcast station (the server machine) televises (distributes) shows, movies, news, and the like (content) to the televisions (to the terminal devices according to) based on a T.V. Guide schedule (a content distribution schedule) set on each of the televisions (set on each one of the terminal devices) in the manner covered by claims 1-16. It is also known to program into the set-top receiver the T.V. Guide by the broadcasting company in cases of cable and satellite televisions so that the user could use such a guide to pull down contents at scheduled times as pushed by the broadcast center based on the scheduled times as established/made/setting by the broadcast centers in the manner covered by claims 1-16. Such was a matter well known by those skilled and not skilled in the art and dates back to pre-mid-1950s. Also, the claims extend beyond television and also cover conferences, libraries, book stores, music stores, gaming stores, and any other content distribution based on a pre announced schedule release dates where the distribution reception point was the terminal device and the distributor the server.

14. Claims 1-16 are rejected under 35 U.S.C. 102 (e) as being anticipated by Cook et al. (United States Patent: US 6,338,044 B1).

15. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

16. Per claim 1, Cook taught an entertainment system (e.g., see Abstract (first line)), comprising: terminal devices of individual users (e.g., see figure 1 and col. 3 (line12 "computers")) connected to a network (Internet) (e.g., see Abstract (fourth to the last line)); and a server machine (e.g., see figure 1 (Website 48 and/or Central host Computer 46)) connected via the network to the terminal devices (e.g., see figures 1, 5, and 7); wherein the server machine distributes content to the terminal devices (e.g., see Abstract) according to a content

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distribution schedule (e.g., see col. 5 (lines 39-57) for pushing) and col. 5 (lines 58-63) for pulling)) *set on each one of the terminal devices* (e.g., see figures 5 (32) and figure 7 (32)).

17. Per claim 2, see for example col. 4 (lines 40-46).

18. Per claim 3, see for example col. 5 (lines 58-63).

19. Per claim 4, see for example col. 5 (lines 39-57).

20. Per claim 5, see for example col. 1 (line 63) to col. 2 (line 10).

21. Per claims 6-16, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above. However, since figures 5 and 7 show the schedules were stored in the server, along with the schedules stored in each user terminal device, they must inherently be set in the server. As indicated above, the content could be either pushed (i.e., sending started by the server) or pulled (i.e., sending started by the user terminal devices based on requests for orders of the content(s)) via the Internet communication line(s). Also, since computers were taught, software was inherently required to operate the computers and thus it was anticipated that the totality, or required portions thereof, were stored on a computer readable medium.

22. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (571) 272-3896. The fax phone number for all papers is (703) 872-9306.

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142